IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

TUESDAY, THE 16TH OCTOBER 2007 / 24TH ASWINA 1929

Bail Appl..No. 6225 of 2007()

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CRIME NO.123/2007 OF KOLATHUR POLICE STATION

: PETITIONERS/ACCUSED NOS.7 TO 29

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1. M.ABDUL LATHEEF, S/O. MAMMED,
MELETHIL HOUSE, VALAPURAM, PULAMANTHOLE,
MALAPPURAM DISTRICT.

2. P.C.MAMMU, S/O. ALAVI,
PUTHUVACHOLA HOUSE, VALAPURAM, PULAMANTHOLE,
MALAPPURAM DISTRICT.

3. K.VENUGOPAL, S/O. NARAYANAN,
KOOTTAYIL HOUSE, VALAPURAM, PULAMANTHOLE,
MALAPPURAM DISTRICT.

4. ABDUL NAZAR, S/O. SAIDALI,
MADATHIL HOUSE, VALAPURAM, PULAMANTHOLE,
MALAPPURAM DISTRICT.

5. SHAMSUDHEEN, S/O. MAMMADU,
PALOLI HOUSE, VALAPURAM, PULAMANTHOLE,
MALAPPURAM DISTRICT.

6. SHIHABUDHEEN, S/O. ALAVI,
PARANGODANTHODI HOUSE, VALAPURAM, PULAMANTHOLE,
MALAPPURAM DISTRICT.

7. NOUFAL, S/O. ABU,
MAKKANDATHIL HOUSE, VALAPURAM, PULAMANTHOLE,
MALAPPURAM DISTRICT.

8. SAMAD, S/O. MAIMOONA,
KOTTAPULAVIL HOUSE, VALAPURAM, PULAMANTHOLE,
MALAPPURAM DISTRICT.

9. ASSAINAR, S/O. MUHAMMED,
KUTTAPULAVIL HOUSE, VALAPURAM, PULAMANTHOLE,
MALAPPURAM DISTRICT.

10. SHOUKATHALI M., S/O. SAIDU,
MADATHIL HOUSE, VALAPURAM, PULAMANTHOLE,
MALAPPURAM DISTRICT.

11. DAKHIR HUSSAIN, S/O. ABDULLA,
PALOLI HOUSE, VALAPURAM, PULAMANTHOLE,
MALAPPURAM DISTRICT.

12. ANOOP, S/O. SIVAN,
CHOLAKKAL HOUSE, VALAPURAM, PULAMANTHOLE,
MALAPPURAM DISTRICT.

13. MUHAMMED MUSTAFA, S/O. ABU,
MAKKANDATHIL HOUSE, VALAPURAM, PULAMANTHOLE,
MALAPPURAM DISTRICT.

14. MUHAMMED HANEEFA, S/O. MAMMAD,
PALOLI HOUSE, VALAPURAM, PULAMANTHOLE,
MALAPPURAM DISTRICT.

15. MUSTAFA, S/O. HAMZA,
THEKKEKUNNATH HOUSE, VALAPURAM, PULAMANTHOLE,
MALAPPURAM DISTRICT.

16. UNAIS, S/O. HASSAN,
PALOLI HOUSE, VALAPURAM, PULAMANTHOLE,
MALAPPURAM DISTRICT.

17. MUHAMMED SADIQ,
PUZHAKKAL HOUSE, VALAPURAM, PULAMANTHOLE,
MALAPPURAM DISTRICT.

18. BASHEER, S/O. UNNEEN,
PUZHAKKAL HOUSE, VALAPURAM, PULAMANTHOLE,
MALAPPURAM DISTRICT.

19. NOUFAL, S/O. MUHAMMEDKUTTY,
MADATHIL HOUSE, VALAPURAM, PULAMANTHOLE,
MALAPPURAM DISTRICT.

20. IBRAHIM, S/O. ALAVI,
PERUVACHOLA HOUSE, VALAPURAM, PULAMANTHOLE,
MALAPPURAM DISTRICT.

21. SAINUDHEEN, S/O. MUHAMMEDKUTTY,
PALOLI HOUSE, VALAPURAM, PULAMANTHOLE,
MALAPPURAM DISTRICT.

22. YUNUS, S/O. TAJUDHEEN,
KUNTHIPARAMBIL HOUSE, VALAPURAM,
PULAMANTHOLE, MALAPPURAM DISTRICT.

BY ADV. SRI.BABU S. NAIR

RESPONDENTS: STATE
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THE STATE OF KERALA, REPRESENTED BY
THE SUB INSPECTOR OF POLICE, KOLATHUR POLICE
STATION - THROUGH THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM, KOCHI-31.

BY PUBLIC PROSECUTOR SRI.JAI GEORGE

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 16/10/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

**R.BASANT, J**

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**B.A.No.6225 of 2007**

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**Dated this the 16th day of October, 2007**

**ORDER**

Application for anticipatory bail. Petitioners are accused 7 to 29. They are not named in the F.I.R. Only accused 1 to 6 are named in the F.I.R. They face allegations for offences punishable, inter alia, under Section 452 I.P.C. The crux of the allegations in the crime registered is that a group of persons allegedly trespassed into the residential building of the defacto complainant and attempted to assault and belabuor him. The miscreants were allegedly involving themselves in sand mining activities. They were inimical towards the defacto complainant because they felt that the defacto complainant was passing on information to the authorities about the sand mining activities. The petitioners were not initially arrayed as accused by the police. Later, the petitioners - accused 7 to 29 have been arrayed as accused.

2. The learned counsel for the petitioners submits that the petitioners are innocent. Only to satisfy the defacto complainant the whole mass of persons in the locality have been arrayed as accused. The petitioners have absolutely no direct involvement in the incident that took place. They have been brought on the array of accused unnecessarily. To avoid vexation to them, directions under Section 438 Cr.P.C may be issued. Appropriate conditions may be imposed, it

is further submitted.

3. The learned Public Prosecutor opposes the application. The learned Public Prosecutor points out that earlier, the named accused had come before this Court for grant of anticipatory bail. But such prayer was turned down by this Court.

4. I have considered all the relevant inputs. Notwithstanding the opposition by the learned Public Prosecutor, I am persuaded to issue directions under Section 438 Cr.P.C in favour of the petitioners. I take note of the crucial difference that the petitioners have not been named as accused initially and as many as 23 persons have been specifically arrayed as accused. Appropriate conditions can of course be imposed.

5. In the result, the Bail Application is, allowed. The following directions are issued under Section 438 Cr.P.C.

i) The petitioners shall appear before the learned Magistrate at 11 a.m on 23.10.07. They shall be enlarged on regular bail on their executing a bond for Rs.25,000/- (Rupees Twenty Five thousand only) each with two solvent sureties each for the like sum to the satisfaction of the learned Magistrate;

ii) The petitioners shall make themselves available for interrogation before the Investigating Officer between 10 a.m and 3 p.m on 24.10.2007 and 25.10.2007 and thereafter between 10 a.m

and 12 noon on all Mondays and Fridays for a period of 2 months;

iii) If the petitioners do not appear before the learned Magistrate as directed in clause (i), directions issued above shall thereafter stand revoked and the police shall be at liberty to arrest the petitioners and deal with them in accordance with law as if those directions were not issued at all;

iv) If the petitioners were arrested prior to their surrender on 23.10.07 as directed in clause (1) above, they shall be released from custody on their executing a bond for Rs.25,000/- (Rupees Twenty Five thousand only) each without any sureties undertaking to appear before the learned Magistrate on 23.10.07.

**(R.BASANT, JUDGE)**

rtr/-